

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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BISNOW LLC, :
: Plaintiff, : 20 Civ. 3441 (PAE) (SLC)
-v- :
: OPINION & ORDER
THOMAS LOPEZ-PIERRE, :
: Defendant. :
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PAUL A. ENGELMAYER, District Judge:

Plaintiff Bisnow LLC (“Bisnow”) brings this action against defendant Thomas Lopez-Pierre asserting federal claims for racketeering, in violation of the Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. § 1962, and state-law claims of tortious interference and trade libel. Dkt. 1. On September 28, 2020, the Court entered a default judgment as to liability for Bisnow against Lopez-Pierre, and commissioned an inquest into damages. Pending now is the November 2, 2022 Report and Recommendation of the Hon. Sarah L. Cave, United States Magistrate Judge, recommending that the Court (1) dismiss the RICO claim with prejudice, for failure to plead a RICO enterprise; (2) decline to exercise supplemental jurisdiction over the state law claims, and thus dismiss those without prejudice; and (3) therefore award no damages. Dkt. 39 (“Report”). The Court incorporates by reference the summary of the facts set out in the Report.

For the following reasons, the Court adopts the Report’s recommendations in their entirety.

DISCUSSION

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at *2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at *4 (S.D.N.Y. July 8, 2009)); *see also*, e.g., *Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

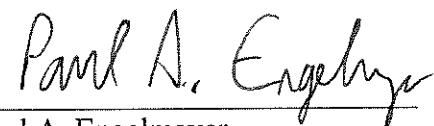
As no party has submitted objections to the Report,¹ review for clear error is appropriate. Careful review of Judge Cave’s thorough and well-reasoned Report reveals no facial error in its conclusions; the Report is therefore adopted in its entirety. Because the Report explicitly states that “failure to object within fourteen (14) days will result in a waiver of objections and will preclude appellate review,” Report at 57, the parties’ failure to object operates as a waiver of appellate review. *See Caidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

¹ On November 10, 2022, the Court denied a motion from plaintiff’s counsel to withdraw without successor counsel, on the grounds that Bisnow, a corporation, cannot represent itself *pro se*. *See* Dkt. 44. The Court stated: “To afford plaintiff sufficient time to secure new counsel without prejudice to its interests in this matter, the deadline to file objections to the Report . . . is extended to November 30, 2022. If no new counsel has by then appeared, and no objections have been filed, the Court will treat the Report as not objected to, and will proceed to promptly review it.” *Id.* No new counsel appeared on behalf of Bisnow, and the Court received no objections to the Report by November 30, 2022.

CONCLUSION

For the foregoing reasons, the Court dismisses with prejudice the RICO claim, and the state law claims without prejudice. The Court respectfully directs the Clerk of Court to mail a copy of this decision to plaintiff at the address on file, to close all pending motions, and to close this case.

SO ORDERED.



Paul A. Engelmayer
United States District Judge

Dated: December 5, 2022
New York, New York